

3 September 2002



THE UNIVERSITY OF
MELBOURNE

Mr Jeff Roberts
The Secretary
Advisory Council on Intellectual Property
PO Box 200
WODEN ACT 2606

Dear Mr Roberts,

On behalf of the University of Melbourne, I thank Mr Owen Malone, the Chair of the Advisory Council on Intellectual Property, for the invitation to comment on the review relating to the exclusion of plant and animal subject matter from coverage by the Innovation Patents.

The general consensus from advice received within the University was that the exclusion of plant and animal subject matter from coverage by the Innovation Patents should not continue.

The predominant reason for this view is that while these subject matters were covered by the Standard Patents, it was logical that they also be covered by the Innovation Patents system. The University is unable to identify any national benefits that would result from their exclusion from the Innovation Patents regime. There is also a concern that if the exclusion from the Innovation Patents remained, coverage by the Standard Patents of plant and animal subject matter might be reconsidered. The exclusion from any patent protection of these subject matters would have a deleterious impact on Australian research and development in the area (in particular) of genetically engineered plants and animals.

It was acknowledged that given the lower threshold of inventiveness required for an Innovation Patent and the ability to apply for an Innovation Patent without the involvement of a patent attorney, a greater amount of litigation could result through counter claims. However, it was also deemed the responsibility of the applicant for an Innovation Patent to take such issues into account.

I look forward to the final deliberations of the Advisory Committee on this issue.

Yours sincerely,

Professor Frank P. Larkins
Deputy Vice-Chancellor (Research)

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